UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,511	11/26/2003	Mauri Saksio	60279.00071	6152

32294 7590 09/26/2008		EXAMINER
SQUIRE, SANDERS & DEMPSEY L.L.P.		LOO, JUVENA W
8000 TOWERS CRESCENT DRIVE		

14TH FLOOR	ART UNIT	PAPER NUMBER
VIENNA, VA 22182-6212	2616	

MAIL DATE	DELIVERY MODE
09/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action *Before the Filing of an Appeal Brief*	Application No. 10/721,511	Applicant(s) SAKSIO, MAURI	
	Examiner JUVENA LOO	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>27 August 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-5,7-14 and 16-20</u>.

   Claim(s) withdrawn from consideration: <u>6 and 15</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2616

JUVENA LOO
Examiner
Art Unit: 2616

Continuation of 11. does NOT place the application in condition for allowance because:
Regarding to claim 1, applicants submit, as in page 7, that Saleh does not disclose or suggest, at least, "monitoring in an intermediate tree element the state of a critical up-link, the critical up- link being an only link from the intermediate tree element to an upper stage tree element in the tree structure; detecting, in the intermediate tree element, a link-down state in the critical up-link; and setting, in the intermediate tree element, a dependent down-link in a link-down state, if said critical up-link is detected to be in the link-down state, the dependent down-link leading to a lower stage tree element in the tree structure and being an only link from the intermediate tree element to the lower stage tree element in the tree structure, wherein the redundant tree structured local area network comprises at least two separate subtrees ending to a set of same host devices, wherein each subtree comprises at least one intermediate stage and wherein an intermediate stage tree element of one tree is not directly connected to an intermediate stage tree element of another tree at the same stage".

In reply, examiner respectfully disagrees with the statement above stating that Saleh does not disclose or suggest, "monitoring in an intermediate tree element the state of a critical up-link, the critical up- link being an only link from the intermediate tree element to an upper stage tree element in the tree structure; detecting, in the intermediate tree element, a link-down state in the critical up-link; and setting, in the intermediate tree element, a dependent down-link in a link-down state, if said critical up-link is detected to be in the link-down state, the dependent down-link leading to a lower stage tree element in the tree structure and being an only link from the intermediate tree element to the lower stage tree element in the tree structure". Saleh (see Figure 1; see also column 3, lines 64 through column 4, line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). Saleh further discloses that when the VP's active physical path fails at a tandem node, the tandem node detects the failure and initiates a path restoration request for the end nodes. In other word, a tandem node (an intermediate element) along the active path is monitoring the health of the incoming link (the dependent down-link) and the outgoing link (the critical up-link). If the failure is in the outgoing link, the tandem node will detect it and consider the link is down and starts a recovery process by sending a restore path message back to the source node. In addition, for a particular virtual path, the incoming link (the dependent down-link) is an only link from the tandem node (the intermediate node) towards the source node while the outgoing link (the critical up-link) is the only link towards the destination.

Furthermore, examiner respectfully disagrees with the statement above stating that Saleh does not disclose or suggest, "wherein the redundant tree structured local area network comprises at least two separate subtrees ending to a set of same host devices, wherein each subtree comprises at least one intermediate stage and wherein an intermediate stage tree element of one tree is not directly connected to an intermediate stage tree element of another tree at the same stage". Saleh (see Figure 1; see also column 3, lines 64 through column 4, line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). In other words, the two physical paths are distinct. Each path connects a source node and a destination node (same host devices) and passes through various tandem nodes (intermediate nodes) in between.

Regarding to claims 5 and 17, applicants submit, as in page 7, that Saleh does not disclose or suggest, "starting a recovery process in the host device by changing the failed active up-link to a redundant up-link leading to an upper stage intermediate tree element in a second tree," and "wherein the redundant tree structured local area network comprises at least two separate subtrees ending to a set of same host devices,".

In reply, examiner respectfully disagrees with the statement above. Saleh (see Figure 1; see also column 3, lines 64 through column 4, line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). The two physical paths are distinct. Each path connects a source node and a destination node (same host devices) and passes through various tandem nodes (intermediate nodes) in between. Saleh further discloses that when the VP's active physical path fails at a tandem node, the tandem node detects the failure and initiates a path restoration request for the end nodes. In other word, a tandem node (an intermediate element) along the active path is monitoring the health of the incoming link (the dependent down-link) and the outgoing link (the critical up-link). If the failure is in the outgoing link, the tandem node will detect it and consider the link is down and starts a recovery process by sending a restore path message back to the source node. In addition, for a particular virtual path, the incoming link (the dependent down-link) is an only link from the tandem node (the intermediate node) towards the source node while the outgoing link (the critical up-link) is the only link towards the destination.

Regarding to claims 9, 16, and 18, applicants submit, as in page 8, that Saleh fails to disclose or suggest a controller configured to "monitor the state of a critical up-link, the critical up-link being an only link to an upper stage tree element in the tree structure of a redundant tree structured local area network comprising at least two separate subtrees ending to a set of same host devices, wherein each subtree comprises to at least one intermediate stage and wherein an intermediate stage tree element of one tree is not directly connected to an intermediate stage tree element of another tree at the same stage, detect a link-down state in the critical up-link, and set a dependent down-link in a link-down state, the dependent down-link leading to a lower stage tree element in the tree structure and being an only link to the lower stage tree element in the tree structure,".

In reply, examiner respectfully disagrees with the statement above.   Saleh (see Figure 1; see also column 3, lines 64 through column 4,

line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). The two physical paths are distinct. Each path connects a source node and a destination node (same host devices) and passes through various tandem nodes (intermediate nodes) in between. Saleh further discloses that when the VP's active physical path fails at a tandem node, the tandem node detects the failure and initiates a path restoration request for the end nodes. In other word, a tandem node (an intermediate element) along the active path is monitoring the health of the incoming link (the dependent down-link) and the outgoing link (the critical up-link). If the failure is in the outgoing link, the tandem node will detect it and consider the link is down and starts a recovery process by sending a restore path message back to the source node. In addition, for a particular virtual path, the incoming link (the dependent down-link) is an only link from the tandem node (the intermediate node) towards the source node while the outgoing link (the critical up-link) is the only link towards the destination.

Regarding claim 14, applicants submit, as in page 8, that Saleh also does not disclose or suggest a controller configured to "monitor the state of an active up-link leading to an intermediate tree element in a first tree of a redundant tree structured local area network comprising at least two separate subtrees ending to a set of same host devices, wherein each subtree comprises at least one intermediate stage and wherein an intermediate stage tree element of one tree is not directly connected to an intermediate stage tree element of another tree at the same stage, detect a link-down state in the active up-link," and "start a recovery process by changing the failed active up-link to a redundant up-link leading to an upper stage intermediate tree element in a second tree,".

In reply, examiner respectfully disagrees with the statement above. Saleh (see Figure 1; see also column 3, lines 64 through column 4, line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). The two physical paths are distinct. Each path connects a source node and a destination node (same host devices) and passes through various tandem nodes (intermediate nodes) in between. Saleh further discloses that when the VP's active physical path fails at a tandem node, the tandem node detects the failure and initiates a path restoration request for the end nodes. In other word, a tandem node (an intermediate element) along the active path is monitoring the health of the incoming link (the dependent down-link) and the outgoing link (the critical up-link). If the failure is in the outgoing link, the tandem node will detect it and consider the link is down and starts a recovery process by sending a restore path message back to the source node. In addition, for a particular virtual path, the incoming link (the dependent down-link) is an only link from the tandem node (the intermediate node) towards the source node while the outgoing link (the critical up-link) is the only link towards the destination.

Regarding claim 13, applicants submit, as in page 12, that the combinations of Saleh and Lamport fail to disclose or suggest a controller configured to "monitor the state of a critical up-link, the critical up-link being an only link to an upper stage tree element in the tree structure of a redundant tree structured local area network comprising at least two separate subtrees ending to a set of same host devices, wherein each subtree comprises to at least one intermediate stage and wherein an intermediate stage tree element of one tree is not directly connected to an intermediate stage tree element of another tree at the same stage, detect a link-down state in the critical up-link, and set a dependent down-link in a link-down state, the dependent down-link leading to a lower stage tree element in the tree structure and being an only link to the lower stage tree element in the tree structure."

In reply, examiner respectfully disagrees with the statement above. Saleh (see Figure 1; see also column 3, lines 64 through column 4, line 32; see also column 4, lines 47 through column 5, line 9; see also Figure 4 and column 5, lines 42 -61) discloses provisioning of Virtual path using 1+ 1 Protection restoration method which two distinct physical paths (Primary Path 0 and Secondary Path 1) are provisioned and assigned to a virtual path (VP) that connected two end points (source and destination). The two physical paths are distinct. Each path connects a source node and a destination node (same host devices) and passes through various tandem nodes (intermediate nodes) in between. Saleh further discloses that when the VP's active physical path fails at a tandem node, the tandem node detects the failure and initiates a path restoration request for the end nodes. In other word, a tandem node (an intermediate element) along the active path is monitoring the health of the incoming link (the dependent down-link) and the outgoing link (the critical up-link). If the failure is in the outgoing link, the tandem node will detect it and consider the link is down and starts a recovery process by sending a restore path message back to the source node. In addition, for a particular virtual path, the incoming link (the dependent down-link) is an only link from the tandem node (the intermediate node) towards the source node while the outgoing link (the critical up-link) is the only link towards the destination.

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